

## **REMARKS**

Claims 21-54 are pending in the above-reference application. Claims 21-24 and 27-28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,814,070 to Borzone et al. (hereinafter “Borzone”). Claims 25, 29-32, 34-36, 45-51, and 53-54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Borzone in view of U.S. Patent No. 6,045,573 to Wenstrom, Jr., et al. (hereinafter “Wenstrom”). Claims 26, 37-40, and 42-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Borzone in view of U.S. Patent No. 6,569,186 to Winters, et al. (hereinafter “Winters”).

Applicants appreciate the interview courteously granted by the Examiner and by Supervisory Examiner Michael Hayes on January 10, 2008. In the interview, claim 21 was discussed in light of Borzone, Wenstrom, and Winters. A variety of features were discussed for possible addition to claim 21 and/or other independent claims to ensure that they define over the cited art. These features include the presence of a recessed drive feature, two symmetrically retained suture lengths, and/or various geometrical limitations related to the anchor threads. The Examiners indicated that such amendments may distinguish over the cited art.

By this paper, Applicants have amended claims 21, 29, 37, and 45 to recite additional structural limitations that clearly distinguish over the cited art. Applicants respectfully assert that claims 21, 29, 37, and 45 are in a condition for allowance.

### **REJECTION OF CLAIMS 21-24 AND 27-28 UNDER 35 U.S.C. § 102 OVER BORZONE**

Claims 21-24 and 27-28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Borzone. By this paper, claim 21 has been amended to recite structure clearly not disclosed by Borzone.

More precisely, claim 21 now recites that “a first suture port extends through at least a portion of the body and is fully encircled by an interior surface along at least a portion of its length.” Further, “the first suture port is spaced apart from the longitudinal axis so as to not intersect the longitudinal axis.” The amendments to claim 21 are clearly supported by Figures 2 and 9 of Applicants’ specification (illustrating fully encircled ports) and by the accompanying description in Paragraph [0058].

Such a port clearly is not disclosed by Borzone. The embodiment of Figure 6 (cited in the Office Action) does not have a portion which is fully bounded by an interior surface; rather, the slot 38 described in column 4, lines 3 through 11 is clearly shaped such that some part of the suture is exposed along the entire length of the slot 38. This is so that the suture anchor 34 will have “a novel distal end 36 designed to engage the suture material without the need to thread the suture material through a small opening.” Column 3, line 67 through column 4, line 3. The remaining embodiments of Borzone do not disclose a suture port that is “spaced apart from the longitudinal axis so as not to intersect the longitudinal axis” of the anchor.

Since claim 21 a feature, namely, the first suture port, which clearly is not disclosed by Borzone, a *prima facie* case of anticipation cannot be made. The same holds true for claims 22-24 and 27-28 because these claims depend from claim 21. Accordingly, withdrawal of the rejection is respectfully requested.

REJECTION OF CLAIMS 25, 29-32, 34-36, 45-51, AND 53-54 UNDER 35 U.S.C. §103 OVER BORZONE IN VIEW OF WENSTROM

Claims 25, 29-32, 34-36, 45-51, and 53-54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Borzone in view of Wenstrom. By this paper, claims 29 and 45 have been amended to recite features clearly not disclosed by Borzone or Wenstrom.

More precisely, claim 29 now recites that first and second suture ports “are each fully encircled by an interior surface at a location near the proximal end, wherein each of the first and second suture ports extends through an exterior sidewall of the elongated body distal to the location.” The amendments to claim 29 are also supported by Figures 2 and 9 of Applicants’ specification and by the accompanying description in Paragraph [0058], which clearly disclose the fully encircled ports and their position proximal to where the ports extend through the exterior sidewall of the elongated body of the anchor.

Neither Borzone nor Wenstrom discloses a port that is fully enclosed by an interior surface proximate a proximal end of an anchor and extends through an exterior sidewall of the anchor distal to the location. Specifically, as set forth above, Figure 6 of Borzone does not disclose a port that is fully encircled by an interior surface of the anchor at any location along the port. The remaining

embodiments of Borzone do not have a suture port that extends through an exterior sidewall of the anchor “distal to” such a fully encircled portion of the bore. Similarly, Wenstrom does not disclose a suture port that extends through an exterior sidewall of the anchor “distal to” such a fully encircled portion of the bore.

Regarding claim 45, the claim now recites two suture ports that “cooperate to provide four parallel suture lengths extending proximally from four apertures of the proximal end [of the elongated body of the suture anchor], wherein each aperture is fully encircled by an interior surface of the elongated body.” Support for this amendment is clearly provided by Figure 9 of Applicants’ specification. Neither Borzone nor Wenstrom discloses a suture anchor with a proximal end having four apertures, each of which is fully encircled by an interior surface of the elongated body.

For the reasons identified above, claims 29 and 45 recite features not disclosed by either cited reference. Accordingly, a *prima facie* case of obviousness cannot now be made based on the cited references. Claims 30-32, 34-36, 46-51, and 53-54 depend from claims 29 and 45, and are therefore patentable over the cited combination for the same reasons. Accordingly, withdrawal of the rejection is respectfully requested.

#### REJECTION OF CLAIMS 26, 37-40, AND 42-44 UNDER 35 U.S.C. §103 OVER BORZONE IN VIEW OF WINTERS

Claims 26, 37-40, and 42-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Borzone in view of Winters. By this paper, claim 37 has been amended to recite features clearly not disclosed by Borzone or Winters.

More precisely, claim 37 now recites an elongated body with a bore that “extends along the longitudinal axis through a portion of a longitudinal length of the body and terminates proximal to the distal end.” The amendments to claim 37 are also supported by Figure 15 of Applicants’ specification, which clearly discloses a suture anchor possessing such a bore.

Neither Borzone nor Winters discloses a bore that extends along a longitudinal axis and terminates proximal to a distal end of an elongated body. Borzone does not appear to disclose any bore that extends along the longitudinal axis of an anchor. Winters does not disclose a bore that terminates proximal to a distal end of an elongated body; rather, all of the bores disclosed by

Winters appear to pass entirely through the distal end of the anchor.

For the reasons identified above, claim 37 recites features not disclosed by either cited reference. Accordingly, a *prima facie* case of obviousness cannot now be made based on the cited references. Claims 38-40, and 42-44 depend from claim 37, and are therefore patentable over the cited combination for the same reasons. Claim 26 depends from claim 21 and is patentable for the reasons set forth in the discussion of claim 21. Accordingly, withdrawal of the rejection is respectfully requested.

### CONCLUSION

For the reasons set forth above, Applicants respectfully assert that claims 21-54 are in condition for allowance. If there are any remaining issues preventing mailing of a Notice of Allowance, the Examiner is respectfully requested to contact the undersigned.

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Respectfully submitted,

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